MONTANA LEGISLATIVE HISTORY

Chapter 346 1975

Bill H 202 S _____ Original bill & history ___C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Jan 28	✓C	Hearing Date(s) Mar 04	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Jan 28	✓C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LC 0765

House BILL NO. 202

INTRODUCED BY McKittrick — Kendall Menahan Kimbrel
Hansen Magone A Barth
W Barth

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 84-709.1, R.C.M. 1947, TO PROVIDE THAT PROCEEDINGS FOR JUDICIAL REVIEW OF A TAX APPEAL BOARD DECISION MUST BE INSTITUTED IN THE COUNTY WHERE THE TAXABLE PROPERTY IS LOCATED."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-709.1, R.C.M. 1947, is amended to read as follows:

"84-709.1. Judicial review of contested cases. (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision in a contested case is entitled to judicial review under this act.

(2) Proceedings for review shall be instituted by filing a petition in district court in the county wherein the taxable property shall be located, and serving a copy thereof on the state tax appeal board, within thirty (30) days after service of the final decision of the state tax appeal board, or if a rehearing is requested within thirty (30) days after the decision thereon. All parties to the appeal shall cause to be served on the state tax appeal board a copy of all pleadings and documents they shall file in such ~~proceeding~~ proceedings."

-End-

The thirteenth meeting of the House Judiciary Committee was called to order in Room 436 of the Capitol Building on Tuesday, January 28, 1975 at 9:00 AM. Representative Herb Huennekens, Chairman, presided. All members were present except Representative Kimble, absent.

Bills scheduled for hearing this date were House Bills Nos. 202, 199 and 194, taken in this order.

HOUSE BILL NO. 202 Representative Patrick McKittrick, District #47, is chief sponsor of this measure to provide that proceedings for judicial review of a tax appeal board decision must be instituted in the county where the taxable property is located. He stated that though this bill was small in language it has significant meaning to taxpayers who might feel they are grieved. Under the present statute if you want to appeal a ruling of the board you have to file this appeal in the first judicial district no matter where you live. This forecloses the idea of having a review for many people because of the cost. The essence of this bill is that it would allow people to file for judicial review in the district in which they live.

Proponent Ray Wayrynen, chairman of the state tax appeal board, stated that if a petition is to be brought by the department of revenue they would file in Lewis and Clark County, this bill is going to work an inconvenience on the department of revenue and the convenience more properly falls on the taxpayer. Suggested amending bill to take care of problem where property is located in more than one county by having the property owner file petition in just one county.

Proponent Gene Phillips, representing Pacific Power and Light, urged passage of this bill. No other proponents.

Opponent Dennis Burr, representing the department of revenue, stated there was significant problem with inter-county appeals. He stated this bill doesn't do anything. No other opponents.

Mr. Wayrynen, in closing, stated that Senate Bill No. 93 deals with and recognizes a similar problem. It provides that the court will assess the cost of the taxpayer against the department of revenue when taxpaeyr's case prevails in the court. Following discussion the hearing was closed.

EXECUTIVE SESSION

HOUSE BILL NO. 202 Representative Moore moved to amend on page 1, line 19 by striking "shall be" and inserting "is", and in line 23 after "thereon" insert "provided, however, if the property subject to judicial review is located in more than one county, then the petition for judicial review will be filed in any one of the counties in which the property is located". He stated he had taken the amendments as proposed by Mr. Wayrynen and Mr. Phillips and combined the best of the two. Following brief discuss motion to amend carried.

Representative Moore moved DO PASS AS AMENDED. Motion carried unanimously.

HOUSE BILL NO. 199 Representative Moore moved DO NOT PASS. Motion seconded by Representative Seifert. Representative Yardley stated he supports this motion, he feels the judge has this option now. Representative Moore stated the judges are coming out with some fairly imaginative programs and jail [illegible] is one of them and feels you could plug up the county facilities with this bill. Representative Scully stated he concurs with what has been said and he had explained this to Representative Gould. Following additional discussion motion DO NOT PASS carried with Representatives Lory, Hager and Rasmussen voting no.

HOUSE BILL NO. 194 Representative Seifert stated he feels this bill would weaken control over the justice system. Upon questioning Representative Seifert was advised that criminal and civil remedies are not the same. The county attorney prosecutes criminal cases.

Representative Moore moved to amend by reinserting the language that has been stricken and with this amendment mov DO PASS AS AMENDED. Representative Yardley stated he was opposed to this bill. He explained three ways the county attorney can hand this problem. With this we are just going to take off another part of law that at this time is a deterrent of writing bad checks.

Representative Meloy made a substitute motion DO PASS. He feels that leaving language in permits the county att or bank to write a letter and this is prima facie evidence, is the language to this bill.

A substitute motion to all motions pending by Representative Seifert of DO NOT PASS failed. Motion DO PASS carri with Representatives Anderson, Yardley, Rasmussen, Hager and Seifer voting no.

STANDING COMMITTEE REPORT

January 28, 19 75

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 20

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 84-709.1, R.C.M. 1947, TO PROVIDE THAT PROCEEDINGS FOR JUDICIAL REVIEW OF A TAX APPEAL BOARD DECISION MUST BE INSTITUTED IN THE COUNTY WHERE THE TAXABLE PROPERTY IS LOCATED."

Respectfully report as follows: That HOUSE Bill No. 20

Be amended in the introduced bill as follows:

1. Amend page 1, section 1, subsection (2), line 19.
   Following: "property"
   Strike: "shall be"
   Insert: "is"

2. Amend page 1, section 1, subsection (2), line 23.
   Following: "thereon"
   Insert: "provided, however, if the property subject to judicia review is located in more than one county, then the petition fo judicial review will be filed in any one of the counties in whi the property is located"

. in Room 442 of the Capitol Building. Mar 04

owing bills were heard:

HB 212
HB 202
HB 100
HB 474

- Representative Pat McKittrick, District 42, the sponsor of the bill, stated that the purpose of the bill was to establish a judgeship for Workers' Compensation cases. The judge would be selected in the same manner in which district court judges are selected and would serve a six year term. He suggested that an amendment be added providing an effective date.

Norman Grosfield, Administrator of the Workmens' Compensation Division, stated that he wholeheartedly supported the bill.

James Murry, Executive Director of the Montana AFL-CIO, supported the bill and submitted written testimony. (Attached).

'S

George Wood, Montana Self-Insurers Association, opposed the bill and submitted written testimony (Attached).

Chad Smith of the American Mutual Insuracne Alliance, stated that the bill placed too much power in the hands of one judge.

Representative McKittrick in closing stated that too much power is in the hands of the Division Administrator now, and that the judge would provide another important means of adjudicating workers' compensation claims.

HB 202

-- Representative Pat McKittrick, District 42, also the sponsor, stated that the purpose of the bill was to allow individuals appealing tax decisions to have the hearing on appeal held in the county in which the property is located.

Ray Wayrynen, Chairman of the State Tax Appeals Board, spoke in support of the bill, saying that it was difficult for some taxpayers to travel to Helena for a hearing.

Gene Phillips, representing Pacific Power and Light Co., spoke in support of the bill and noted that most of that company's property was a long distance from Helena.

Dennis Burr of the Department of Revenue stated that the department supported the bill as amended in the House.

There were no opponents to the bill.

HB 212 -- Representative Pat McKittrick also the sponsor of the bill, stated that the purpose of the bill was to allow district judges having 12 years of service who are involuntarily retired to collect full retirement benefits.

Judge Paul Hatfield, District Judge of the 8th Judicial District, stated that without this bill judges are in a tenuous position at elections. After serving 12 years, he said, many judges are no in a position to find other employment if they lose an election.

There were no further proponents and no opponents to the bill.

HB 474 -- Representative Verner Bertelson, District 27, sponsor of the bill, explained the bill in which he stated would eliminate the requirement of listing the registry number of each elector on posted lists of electors. He stated that the bill was a housekeeping measure requested by the county clerks and recorders.

John Bell, representing the Clerks' and Recorders' Association, stated that the bill was in fact a housekeeping measure and submitted written testimony (Attached

Ms. Joanne Woodgerd of the Secretary of State's Office, stated that the Secretary of State's Office supported the bill.

There were no further proponents and no opponents to the bill.

EXECUTIVE SESSION

HB 474 -- Senator Turnage moved to amend the bill to reinsert stricken material in section 1 and insert language barri the use of Social Security numbers for voter registratio unless required by law.

Senator Roberts made a substitute motion that the bill b concurred in.

Senator Turnage made a substitute motion for all motions

HB 202 -- Senator Towe moved to amend HB 202 on page 1, lines 20 and 21. WITH SENATOR ROBERTS ABSENT AND SENATOR GREELY VOTING NO, THE MOTION CARRIED ON A ROLL CALL VOTE.

Senator Turnage moved to amend HB 202 on page 1, lines 24 through 25 and page 2, lines 1, 2, and 3 by striking the new language. WITH SENATOR ROBERTS ABSENT AND SENATOR GREELY VOTING NO, THE MOTION CARRIED ON A ROLL CALL VOTE.

Senator Turnage moved that HB 202 be concurred in as amended. WITH SENATOR ROBERTS ABSENT, THE MOTION CARRIED ON A ROLL CALL VOTE.

SB 100 -- The committee assigned its researcher to work out with Representative McKittrick proposed amendments to SB 100.

The meeting was adjourned at 4:30 P.M.

Chairman

SENATE COMMITTEE JUDICIARY

Date 3/4/75 House Bill No. 202 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS		
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY		X

Secretary

Chairman

Motion: By Senator Turnage to amend page 1, lines 24, 25, page 2, lines 1-3 by striking the new language. (See attached committee report)

(include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/4/75 House Bill No. 202 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS		
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY		X

Secretary

Chairman

Motion: by Senator Towe to amend page 1, lines 20 & 21 (see attached committee report)

(include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 2/4/75 Hawaii Bill No. 202 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS		
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Secretary

Chairman

Motion: by Senator Towe that HB 202 be concurred in.

(include enough information on motion—put with yellow copy of committee report.)

R. .....PRESIDENT.....

We, your committee on .....JUDICIARY.....

iving had under consideration .....HOUSE..... Bill No. 202

espectfully report as follows: That .....HOUSE..... Bill No. 202,

ird reading, be amended as follows:

1. Amend page 1, section 1, line 20.
   Following: "property"
   Insert: "or some portion thereof"

2. Amend page 1, section 1, line 20.
   Following: "located,"
   Insert: "except the taxpayer may, at his option, file in the district court of the first judicial district,"

3. Amend page 1, section 1, line 21.
   Following: line 20
   Strike: "thereof"
   Insert: "the petition"

4. Amend page 1, section 1, lines 24 through line 3 on page 2.
   Following: "thereon"
   Strike: "PROVIDED, HOWEVER, IF THE PROPERTY SUBJECT TO JUDICIA REVIEW IS LOCATED IN MORE THAN ONE (1) COUNTY, THEN T PETITION FOR JUDICIAL REVIEW WILL BE FILED IN ANY ONE (1) OF THE COUNTIES IN WHICH THE PROPERTY IS LOCATED"

AND AS SO AMENDED, BE CONCURRED IN.....

.....Thomas L. Tove..... Chairman

STATE PUB CO

HOUSE BILL NO. 202

INTRODUCED BY MCKITTRICK, KENDALL, MENAHAN, KANDUCH, HERLEVI, MAGONE, R. BAETH, W. BAETH

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 84-709.1, R.C.M. 1947, TO PROVIDE THAT PROCEEDINGS FOR JUDICIAL REVIEW OF A TAX APPEAL BOARD DECISION MUST BE INSTITUTED IN THE COUNTY WHERE THE TAXABLE PROPERTY IS LOCATED."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-709.1, R.C.M. 1947, is amended to read as follows:

"84-709.1. Judicial review of contested cases. (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision in a contested case is entitled to judicial review under this act.

(2) Proceedings for review shall be instituted by filing a petition in district court in the county wherein the taxable property OR SOME PORTION THEREOF ~~shall be~~ IS located, EXCEPT THE TAXPAYER MAY, AT HIS OPTION, FILE IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT, and serving a copy ~~thereof~~ OF THE PETITION on the state tax appeal board, within thirty (30) days after service of the final decision of the state tax appeal board, or if a rehearing is requested within thirty (30) days after the decision thereon~~; PROVIDED, HOWEVER, IF THE PROPERTY SUBJECT TO JUDICIAL REVIEW IS LOCATED IN MORE THAN ONE (1) COUNTY, THEN THE PETITION FOR JUDICIAL REVIEW WILL BE FILED IN ANY ONE (1) OF THE COUNTIES IN WHICH THE PROPERTY IS LOCATED~~. All parties to the appeal shall cause to be served on the state tax appeal board a copy of all pleadings and documents they shall file in such ~~proceeding~~ proceedings.

(3) NOTWITHSTANDING ANY OTHER PROVISION, PROCEEDINGS FOR REVIEW OF A DECISION BY THE STATE TAX APPEAL BOARD BY A COMPANY UNDER THE JURISDICTION OF THE PUBLIC SERVICE COMMISSION SHALL BE INSTITUTED IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT."

-End-